



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service, Interior.

[FWS-R4-FHC-2011-N255]

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***Deepwater Horizon* Oil Spill; Draft Phase I Early Restoration Plan and Environmental Assessment**

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Early Restoration Plan and Environmental Assessment (DERP/EA) describing and proposing a suite of early restoration projects intended to commence the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in

the Gulf of Mexico. The purpose of this notice is to inform the public of the availability of the DERP/EA and to seek written comments on the proposed restoration alternative presented in the DERP/EA.

DATES:

Comments Due Date: We will consider public comments received on or before February 14, 2012.

Public Meetings: A series of public meetings are scheduled to facilitate public review and comment on the DERP/EA. Both written and verbal public comments will be taken at the meetings. The meeting dates, times, and locations are listed below. Meeting facilities and their addresses will be published in local newspapers and will be posted on the web at www.gulfspillrestoration.noaa.gov.

Date and Time		Location
Jan 11, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Florida
Jan 12, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Florida
Jan 17, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 18, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 19, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 23, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Alabama
Jan 24, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Alabama
Jan 26, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Texas
Jan 31, 2012	5:30 pm Open House 6:30 pm Meeting/presentation/comment	Louisiana
Feb 1, 2012	5:30 pm Open House 6:30 pm Meeting/presentation/comment	Louisiana
Feb 2, 2012	5:30 pm Open House	Louisiana

	6:30 pm Meeting/presentation/comment	
Feb 7, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Washington, D.C.

ADDRESSES: *Obtaining Documents:* You may download the DERP/EA and the framework agreement at <http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>. Alternatively, you may request a CD of the DERP/EA (see FOR FURTHER INFORMATION CONTACT). You may also review hard copies of the DERP/EA at any of the public repositories listed at <http://www.gulfspillrestoration.noaa.gov>.

Submitting Comments: You may submit comments on the DERP/EA by one of following methods:

- Via the Web: <http://www.gulfspillrestoration.noaa.gov>
- For electronic submission of comments containing attachments, email:
Phase1DERPcomments@fws.gov
- U.S. Mail: c/o U.S. Fish and Wildlife Service, P.O. Box 200, Fairhope, AL 36533.

FOR FURTHER INFORMATION CONTACT: Brian Spears at FW4DWHInfo@fws.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed. An estimated 4.9 million barrels (210 million

gallons) of oil were released from the well into the Gulf of Mexico over a period of approximately three months. In addition, approximately 771,000 gallons of dispersants were applied to the waters of the spill area in an attempt to minimize impacts from spilled oil. Affected resources include ecologically, recreationally, and commercially important species and their habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

Federal and State trustees (listed below) are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. § 2701 *et seq.*). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the damages required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship. The trustees have developed this DERP/EA under the Framework Agreement.

The trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;

- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- Texas Parks and Wildlife Department, Texas General Land Office and Texas Commission on Environmental Quality.

The U.S. Department of Defense (DOD) is a Trustee, but does not have affected lands in this Draft Phase I Early Restoration Project.

Background

On April 20, 2011, BP agreed to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. This early restoration agreement, entitled “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill” (Framework Agreement), represents a preliminary step toward the restoration of injured natural resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the completion of the natural resource damage assessment process or full resolution of the Trustees’ natural resource damages claim.

The Trustees have actively solicited public input on restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project

submissions. The Trustees are considering a broad array of potential early restoration projects. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is still underway. As the first step in this accelerated process, the Trustees are first proposing eight projects as set forth in this Phase I Draft Early Restoration Plan/Environmental Assessment (DERP/EA) in accordance with OPA and NEPA. The projects proposed in this plan are not intended to, and do not fully, address all injuries caused by the spill or provide the extent of restoration needed to satisfy claims against BP.

In keeping with the Framework Agreement, the DERP/EA includes an estimate of the gains anticipated to result from each project, referred to as “Natural Resource Damage Offsets” (NRD Offsets). These NRD Offsets were identified consistent with the terms of the Framework Agreement. If these projects are approved, at the end of the NRDA process, the Trustees would credit these NRD Offsets generated by these early restoration projects towards the total restoration credits required based on the completed injury assessment. Further comprehensive restoration will still be required to fully compensate the public for natural resource losses from the oil spill.

Overview of the Phase 1 DERP/EA

Draft Early Restoration Plan Alternatives, Including Proposed Alternative

The DERP/EA describes two early restoration alternatives: No Action – Natural Recovery (required for consideration by OPA) and Proposed Action – Proposed Early Restoration Projects. Under the No Action alternative, the trustees would not implement early restoration projects as described in this DERP/EA. Rather, the trustees would rely, for the time being, solely on natural recovery processes to restore natural resources to their pre-spill

conditions and would undertake no early actions to accelerate recovery or to help address interim resource losses.

Under the Proposed Action, the Trustees are considering eight projects that meet the selection criteria as described in the DERP/EA.

Proposed Action – Proposed Early Restoration Projects

The proposed projects are intended to provide services that will benefit injured marshes, coastal dune habitats, nearshore sediments, oysters, and human uses (on water recreation). Each of these projects provides benefits to natural resources and their services injured by the *Deepwater Horizon* oil spill. The proposed projects are: (1) Lake Hermitage Marsh Creation, Louisiana; (2) Louisiana Oyster Cultch Project; (3) Mississippi Oyster Cultch Restoration; (4) Mississippi Artificial Reef Habitat; (5) Marsh Island (Portersville Bay, Alabama) Marsh Creation; (6) Alabama Dune Restoration Cooperative Project; (7) Florida Boat Ramp Enhancement Cooperative Project; (8) Florida Dune Restoration.

Next Step

After the public comment period ends, we will analyze and address the comments. After close of the public comment period, the Trustees will consider all input received before a Phase I Early Restoration Plan is finalized. As described above, a series of public meetings are scheduled to facilitate the public review and comment process. Upon completion of the Phase I Early Restoration Plan, negotiations with BP will be completed and approved projects will proceed to implementation, pending compliance with all applicable state and federal laws.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: <http://www.doi.gov/deepwaterhorizon>.

Author

The primary author of this notice is Nanciann Regalado.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. § 2701 *et seq.*), the implementing Natural Resource Damage Assessment regulations found at 15 CFR Part 990, and the Framework Agreement for Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.

Cynthia K. Dohner

DOI Authorized Official

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